

LONG BEACH COMMUNITY COLLEGE DISTRICT

Audit Report

HEALTH FEE ELIMINATION PROGRAM

Chapter 1, Statutes of 1984, 2nd Extraordinary Session,
and Chapter 1118, Statutes of 1987

July 1, 2001, through June 30, 2003



STEVE WESTLY
California State Controller

April 2005



STEVE WESTLY
California State Controller

April 27, 2005

Jan Kehoe, Ed.D.
Superintendent-President
Long Beach Community College District
4901 East Carson Street
Long Beach, CA 90808

Dear Dr. Kehoe:

The State Controller's Office audited the claims filed by Long Beach Community College District for costs of the legislatively mandated Health Fee Elimination Program (Chapter 1, Statutes of 1984, 2nd Extraordinary Session, and Chapter 1118, Statutes of 1987) for the period of July 1, 2001, through June 30, 2003.

The district claimed \$516,978 for the mandated program. Our audit disclosed that \$50,349 is allowable and \$466,629 is unallowable. The unallowable costs occurred primarily because the district overstated its indirect cost rates, understated authorized health service fees, and claimed unallowable costs. The State paid the district \$25,457. The State will pay allowable costs claimed that exceed the amount paid, totaling \$24,892, contingent upon available appropriations.

If you disagree with the audit findings, you may file an Incorrect Reduction Claim (IRC) with the Commission on State Mandates (COSM). The IRC must be filed within three years following the date that we notify you of a claim reduction. You may obtain IRC information at COSM's Web site at www.csm.ca.gov (Guidebook link), and obtain IRC forms by telephone at (916) 323-3562 or by e-mail at csminfo@csm.ca.gov.

If you have any questions, please contact Jim L. Spano, Chief, Compliance Audits Bureau, at (916) 323-5849.

Sincerely,

Original Signed By:

VINCENT P. BROWN
Chief Operating Officer

VPB:JVB/ams

cc: Irma Ramos

Administrative Dean

Human Resources

Long Beach Community College District

Ed Monroe, Program Assistant

Fiscal Accountability Section

Chancellor's Office

California Community Colleges

Jeannie Oropeza, Program Budget Manager

Education Systems Unit

Department of Finance

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Audit Report

Summary

The State Controller's Office (SCO) audited the claims filed by Long Beach Community College District for costs of the legislatively mandated Health Fee Elimination Program (Chapter 1, Statutes of 1984, 2nd Extraordinary Session (E.S.), and Chapter 1118, Statutes of 1987) for the period of July 1, 2001, through June 30, 2003. The last day of fieldwork was October 14, 2004.

The district claimed \$516,978 for the mandated program. The audit disclosed that \$50,349 is allowable and \$466,629 is unallowable. The unallowable costs occurred primarily because the district overstated its indirect cost rates, understated authorized health services fees, and claimed unallowable costs. The State paid the district \$25,457. The State will pay allowable costs claimed that exceed the amount paid, totaling \$24,892, contingent upon available appropriations.

Background

Education Code Section 72246 (repealed by Chapter 1, Statutes of 1984, 2nd E.S.) authorizes community college districts to charge a health fee for providing health supervision and services, direct and indirect medical and hospitalization services, and operation of student health centers. This statute also required that health services for which a community college district charged a fee during fiscal year (FY) 1983-84 had to be maintained at that level in FY 1984-85 and every year thereafter. The provisions of this statute would automatically sunset on December 31, 1987, reinstating the community college districts' authority to charge a health fee as specified.

Education Code Section 72246 (amended by Chapter 1118, Statutes of 1987) requires any community college district that provided health services in FY 1986-87 to maintain health services at the level provided during that year in FY 1987-88 and each fiscal year thereafter.

On November 20, 1986, the Commission on State Mandates (COSM) determined that Chapter 1, Statutes of 1984, 2nd E.S., imposed a "new program" upon community college districts by requiring any community college district that provided health services for which it was authorized to charge a fee pursuant to former *Education Code* Section 72246 in FY 1983-84 to maintain health services at the level provided during that year in FY 1984-85 and each fiscal year thereafter. This maintenance-of-effort requirement applies to all community college districts that levied a health services fee in FY 1983-84, regardless of the extent to which the health services fees collected offset the actual costs of providing health services at the FY 1983-84 level.

On April 27, 1989, COSM determined that Chapter 1118, Statutes of 1987, amended this maintenance-of-effort requirement to apply to all community college districts that provided health services in FY 1986-87, requiring them to maintain that level in FY 1987-88 and each fiscal year thereafter.

Parameters and Guidelines establishes state mandate and defines reimbursement criteria. COSM adopted *Parameters and Guidelines* on August 27, 1987, and amended it on May 25, 1989. In compliance with *Government Code* Section 17558, the SCO issues claiming instructions for mandated programs, to assist school districts in claiming reimbursable costs.

Objective, Scope, and Methodology

We conducted the audit to determine whether costs claimed represent increased costs resulting from the Health Fee Elimination Program for the period of July 1, 2001, through June 30, 2003.

Our audit scope included, but was not limited to, determining whether costs claimed were supported by appropriate source documents, not funded by another source, and not unreasonable and/or excessive.

We conducted the audit according to *Government Auditing Standards*, issued by the Comptroller General of the United States, and under the authority of *Government Code* Section 17558.5. We did not audit the district's financial statements. We limited our audit scope to planning and performing audit procedures necessary to obtain reasonable assurance that costs claimed were allowable for reimbursement. Accordingly, we examined transactions, on a test basis, to determine whether the costs claimed were supported.

We limited our review of the district's internal controls to gaining an understanding of the transaction flow and claim preparation process as necessary to develop appropriate auditing procedures.

We asked the district's representative to submit a written representation letter regarding the district's accounting procedures, financial records, and mandated cost claiming procedures, as recommended by *Government Auditing Standards*. However, the district declined our request.

Conclusion

Our audit disclosed instances of noncompliance with the requirements outlined above. These instances are described in the accompanying Summary of Program Costs (Schedule 1) and in the Findings and Recommendations section of this report.

For the audit period, Long Beach Community College District claimed \$516,978 for Health Fee Elimination Program costs. Our audit disclosed that \$50,349 is allowable and \$466,629 is unallowable.

For FY 2001-02, the State paid the district \$25,457. Our audit disclosed that \$50,349 is allowable. The State will pay allowable costs claimed that exceed the amount paid, totaling \$24,892, contingent upon available appropriations.

For FY 2002-03, the State made no payment to the district. The audit disclosed that none of the costs claimed is allowable.

**Views of
Responsible
Official**

We issued a draft audit report on February 4, 2005. Irma Ramos, Administrative Dean, Human Resources, responded by letter dated February 23, 2005 (Attachment), disagreeing with the audit results. The final audit report includes the district's response.

Based on the district's response, Finding 1 reported in the draft report for \$9,222 has been removed from this final report. Consequently, Findings 1 through 5 in the draft report have been renumbered as Findings 1 through 4.

Finding 1 stated that pregnancy testing claimed during the audit period was not offered during the FY 1996-97 base year and, therefore, the costs were unallowable. The finding was supported by the district's "Fall 1991 LAC Health Services Semester Report" that stated pregnancy testing was "now" offered, among other services. Additional evidence was not available to support that pregnancy testing was not offered in the FY 1996-97 base year.

Restricted Use

This report is solely for the information and use of the Long Beach Community College District, the California Community Colleges Chancellor's Office, the California Department of Finance, and the SCO; it is not intended to be and should not be used by anyone other than these specified parties. This restriction is not intended to limit distribution of this report, which is a matter of public record.

Original Signed By:

JEFFREY V. BROWNFIELD
Chief, Division of Audits

Schedule 1— Summary of Program Costs July 1, 2001, through June 30, 2003

<u>Cost Elements</u>	<u>Actual Costs Claimed</u>	<u>Allowable per Audit</u>	<u>Audit Adjustments</u>	<u>Reference ¹</u>
<u>July 1, 2001, through June 30, 2002</u>				
Salaries and benefits	\$ 318,568	\$ 318,568	\$ —	
Services and supplies	98,913	90,493	(8,420)	Findings 1, 4
Subtotal	417,481	409,061	(8,420)	
Indirect costs	149,291	75,424	(73,867)	Findings 1, 2, 4
Total health expenditures	566,772	484,485	(82,287)	
Less authorized health fees	(321,995)	(432,828)	(110,833)	Finding 3
Less offsetting savings/reimbursements	—	(837)	(837)	Finding 4
Less cost of services in excess of FY 1986-87 services	(471)	(471)	—	
Total costs	<u>\$ 244,306</u>	50,349	<u>\$ (193,957)</u>	
Less amount paid by the State		(25,457)		
Allowable costs claimed in excess of (less than) amount paid		<u>\$ 24,892</u>		
<u>July 1, 2002, through June 30, 2003</u>				
Salaries and benefits	\$ 342,109	\$ 342,109	\$ —	
Services and supplies	96,417	87,780	(8,637)	Finding 1
Subtotal	438,526	429,889	(8,637)	
Indirect costs	148,836	77,522	(71,314)	Findings 1, 2
Total health expenditures	587,362	507,411	(79,951)	
Less authorized health fees	(313,843)	(531,252)	(217,409)	Finding 3
Less offsetting savings/reimbursements	(847)	(847)	—	
Total costs	272,672	(24,688)	(297,360)	
Adjustment to eliminate negative balance	—	24,688	24,688	
Net allowable costs	<u>\$ 272,672</u>	—	<u>\$ 272,672</u>	
Less amount paid by the State		—		
Allowable costs claimed in excess of (less than) amount paid		<u>\$ —</u>		

Schedule 1 (continued)

Cost Elements	Actual Costs Claimed	Allowable per Audit	Audit Adjustments	Reference ¹
<u>Summary: July 1, 2001, through June 30, 2003</u>				
Salaries and benefits	\$ 660,677	\$ 660,677	\$ —	
Services and supplies	195,330	178,273	(17,057)	Findings 1, 4
Subtotal	856,007	838,950	(17,057)	
Indirect costs	298,127	152,946	(145,181)	Findings 1, 2, 4
Total health expenditures	1,154,134	991,896	(162,238)	
Less authorized health fees	(635,838)	(964,080)	(328,242)	Finding 3
Less cost of services in excess of FY 1986-87 services	(471)	(471)	—	
Less offsetting savings/reimbursements	(847)	(1,684)	(837)	Finding 4
Total costs	516,978	25,661	(491,317)	
Adjustment to eliminate negative balance	—	24,688	24,688	
Net allowable costs	<u>\$ 516,978</u>	50,349	<u>\$ (466,629)</u>	
Less amount paid by the State		(25,457)		
Allowable costs claimed in excess of (less than) amount paid		<u>\$ 24,892</u>		

¹ See the Findings and Recommendations section.

Findings and Recommendations

FINDING 1— Unallowable services and supplies costs

The district overclaimed services and supplies costs totaling \$17,894 during the audit period. The related unallowable indirect costs totaled \$6,241, based on claimed indirect cost rates.

The district overclaimed insurance premiums paid for student basic and catastrophic coverage by \$11,869, because it included unallowable premiums paid for athletic insurance. In addition, the district inadvertently claimed \$6,025 twice for services and supplies.

The following table summarizes the audit adjustment.

	Fiscal Year		Total
	2001-02	2002-03	
Student insurance premiums	\$ (5,857)	\$ (6,012)	\$ (11,869)
Costs claimed twice	(3,400)	(2,625)	(6,025)
Total direct costs	(9,257)	(8,637)	\$ (17,894)
Indirect cost rate claimed	× 35.76%	× 33.94%	
Related indirect costs	(3,310)	(2,931)	\$ (6,241)
Total direct costs (from above)	(9,257)	(8,637)	(17,894)
Audit adjustment	\$ (12,567)	\$ (11,568)	\$ (24,135)

Parameters and Guidelines states that the cost of insurance is reimbursable for the following activities: (1) on campus accident, (2) voluntary, and (3) insurance inquiry/claim administration.

Education Code Section 76355(d) (formerly Section 72246(2)) states that athletic insurance is not an authorized expenditure for health services.

Parameters and Guidelines also states that all costs claimed must be traceable to source documentation that shows evidence of the validity of such costs.

Recommendation

We recommend the district ensure that it claims only costs for health services that are reimbursable under the mandate program. In addition, the district should ensure that all costs claimed are supported by source documentation.

District's Response

The District is still investigating the athletic insurance costs to determine if the amounts reported in the claim related to basic insurance costs for students who also were covered by athletic insurance. However, the final audit report need not be delayed for this work.

SCO's Comment

The finding and recommendation remain unchanged. The district did not provide any additional information supporting the allowability of insurance costs claimed.

**FINDING 2—
Overstated indirect
cost rates claimed**

The district overstated its indirect cost rates, thus overstating its indirect costs by \$139,093 for the audit period.

The district claimed indirect costs based on indirect cost rate proposals (ICRPs) prepared for each fiscal year by an outside consultant. However, the district did not obtain federal approval for its ICRPs. We calculated indirect cost rates using the methodology allowed by the SCO claiming instructions. The calculated indirect costs rates did not support the indirect cost rates claimed. The audited and claimed indirect cost rates are summarized as follows.

	Fiscal Year	
	2001-02	2002-03
Allowable indirect cost rate	18.23%	17.96%
Less claimed indirect cost rate	(35.76)%	(33.94)%
Unsupported indirect cost rate	<u>(17.53)%</u>	<u>(15.98)%</u>

Based on these unsupported indirect cost rates, we made the following audit adjustments.

	Fiscal Year		Total
	2001-02	2002-03	
Allowable costs originally claimed	\$ 403,367	\$ 427,927	
Unsupported indirect cost rate	×(17.53)%	×(15.98)%	
Audit adjustment	<u>\$ (70,710)</u>	<u>\$ (68,383)</u>	<u>\$ (139,093)</u>

Parameters and Guidelines states that indirect costs may be claimed in the manner described in the SCO claiming instructions. Those instructions require that districts obtain federal approval of ICRPs prepared according to Office of Management and Budget (OMB) Circular A-21. As an alternative, districts may use form FAM-29C to compute indirect cost rates. Form FAM-29C uses total expenditures reported in the *California Community College Annual Financial and Budget Report, Expenditures by Activity (CCFS-311)*.

Recommendation

We recommend that the district claim indirect costs based on indirect cost rates computed in accordance with the SCO claiming instructions. The district should obtain federal approval for ICRPs prepared in accordance with OMB Circular A-21. As an alternative, the district should use Form FAM-29C to prepare ICRPs based on the methodology allowed in the SCO claiming instructions.

District's Response

The State Controller asserts that the indirect cost method used by the District was inappropriate since it was not a cost study specifically approved by the federal government, which is one of the several choices allowed by the parameters and guidelines. The parameters and guidelines *do not require* that indirect costs be claimed in the manner described by the State Controller.

The State Controller's claiming instructions were never adopted as rules or regulations, and therefore have no force of law. The burden is on the State Controller to show, either factually or as a matter of law,

that the indirect cost rate method used by the District is excessive or unreasonable, which is the only mandated cost audit standard in statute (Government Code Section 17651(d) (2). If the State Controller wishes to enforce audit standards for mandated cost reimbursement, the State Controller should comply with the Administrative Procedures Act.

SCO's Comment

The finding and recommendation remain unchanged.

Parameters and Guidelines states that indirect costs may be claimed in the manner described in the SCO's claiming instructions. Therefore, the specific directions for the indirect cost rate calculation in the claiming instructions are an extension of *Parameters and Guidelines*. The SCO's claiming instructions state that community colleges have the option of using a federally approved rate prepared in accordance with OMB Circular A-21 or the SCO's alternate methodology using Form FAM-29C. In this case, the district chose to use indirect cost rates not approved by a federal agency, which is not an option provided by the SCO's claiming instructions.

FINDING 3— Understated authorized health fee revenues claimed

For the audit period, the district understated authorized health service fees by \$217,409. The district reported actual revenue received rather than health fees the district was authorized to collect.

The district was unable to retrieve student attendance data from its computer system that was used to calculate the net health fee revenues reported in its reimbursement claims for the audit period. At the district's recommendation, we recalculated authorized health fee revenues using the Student Headcount by Enrollment Status for Long Beach Community College District report available from the California Community Colleges Chancellor's Office Web site, as well as district-prepared reports indicating the number of students who received fee waivers.

Using the student enrollment and exemption data, we calculated the health fees the district was authorized to collect, as shown in the following table.

	<u>Fall</u>	<u>Spring</u>	<u>Summer</u>	<u>Total</u>
<u>Fiscal Year 2001-02</u>				
Student enrollment	\$ 23,157	\$ 27,910	\$ 14,823	
Less allowable health fee exemptions	<u>(11,295)</u>	<u>(11,206)</u>	<u>(4,819)</u>	
Subtotal	11,862	16,704	10,004	
Authorized student health fee	<u>× \$ (12)</u>	<u>× \$ (12)</u>	<u>× \$ (9)</u>	
Authorized health service fees	<u>\$ (142,344)</u>	<u>\$ (200,448)</u>	<u>\$ (90,036)</u>	<u>\$ (432,828)</u>
<u>Fiscal Year 2002-03</u>				
Student enrollment	\$ 29,273	\$ 28,939	\$ 16,941	
Less allowable health fee exemptions	<u>(11,499)</u>	<u>(11,991)</u>	<u>(4,209)</u>	
Subtotal	17,774	16,948	12,732	
Authorized student health fee	<u>× \$ (12)</u>	<u>× \$ (12)</u>	<u>× \$ (9)</u>	
Authorized health service fees	<u>\$ (213,288)</u>	<u>\$ (203,376)</u>	<u>\$ (114,588)</u>	<u>\$ (531,252)</u>

The following table summarizes the resulting audit adjustment.

	Fiscal Year		Total
	2001-02	2002-03	
Health fee claimed	\$ 321,995	\$ 313,843	\$ 635,838
Less authorized health service fees	(432,828)	(531,252)	(964,080)
Audit adjustment	<u>\$ (110,833)</u>	<u>\$ (217,409)</u>	<u>\$ (328,242)</u>

Parameters and Guidelines requires that the district deduct authorized health fees from claimed costs. *Education Code* Section 76355(c) authorizes health fees for all students except those students who: (1) depend exclusively on prayer for healing; (2) attend a community college under an approved apprenticeship training program; or (3) demonstrate financial need. (*Education Code* Section 76355(a) increased authorized health fees by \$1 effective with the Summer 2001 session.)

Also, *Government Code* Section 17514 states that “costs mandated by the State” means any increased costs that a school district is required to incur. To the extent that community college districts can charge a fee, they are not required to incur a cost. In addition, *Government Code* Section 17556 states that COSM shall not find costs mandated by the State if the school district has the authority to levy fees to pay for the mandated program or increased level of service.

Recommendation

We recommend that the district deduct authorized health service fees from allowable health service program costs on the mandate claim. The district should maintain records to support its calculation of authorized health service fees. This includes records that identify actual student enrollment and students exempt from health fees pursuant to *Education Code* Section 76355(c).

District’s Response

The District reported the actual student health services received, rather than utilize an estimate generated by the artificial calculation suggested by the parameters and guidelines. The State Controller alleges that claimants must compute the total student health fees collectible based on the highest “authorized” rate. The State Controller does not provide the factual basis for the calculation of the “authorized” rate, nor provide any reference to the “authorizing” source, nor the legal right of any state entity to “authorize” student health services rates absent rulemaking or compliance with the Administrative Procedures Act by the “authorizing” state agency.

Education Code Section 76355, subdivision (a), states that “The governing board of a district maintaining a community college may require community college students to pay a fee . . . for health supervision and services . . .” There is no requirement that community colleges levy these fees. The permissive nature of the provision is further illustrated in subdivision (b) which states “If, pursuant to this section, a fee is required, the governing board of the district shall decide the amount of the fee, if any, that a part-time student is required

to pay. The governing board may decide whether the fee shall be mandatory or optional." (Emphasis supplied in both instances)

The State Controller asserts that the parameters and guidelines require that health fees authorized by the Education Code must be deducted from the costs claimed. This is a misstatement of the Parameters and Guidelines. The Parameters and Guidelines, as last amended on May 25, 1989, state that "Any offsetting savings . . . must be deducted from the costs claimed . . . This shall include the amount of (student fees) as authorized by Education Code Section 72246(a)¹." Therefore, while student fees actually collected are properly used to offset costs, student fees that could have been collected, but were not, are not an offset.

The State Controller also misconstrues the legal meaning of Government Code Section 17556, which prohibits the Commission on State Mandates from approving test claims when the local government agency has authority to charge a fee sufficient to fund the cost of the mandate. This Commission determined that the mandate was a new program or increased level of service. Even the source of the mandate, Education Code Section 76355, at subdivision (e), allows for the possibility that the "cost to maintain that level of service" will exceed the statutory limit for the student health fees.

SCO's Comment

The finding and recommendation remain unchanged.

As mentioned above, the district was unable to retrieve student attendance data from its computer system that was used to calculate the net health fee revenues reported in its reimbursement claims for the audit period. At the district's recommendation, we recalculated authorized health fee revenues using the Student Headcount by Enrollment Status for Long Beach Community College District report available from the California Community Colleges Chancellor's Office Web site, as well as district-prepared reports indicating the number of students who received fee waivers.

We agree that community college districts may choose not to levy a health services fee. This is true even if *Education Code* Section 76355 provides the districts with the authority to levy such fees. However, the effect of not imposing the health services fee is that the related health services costs do not meet the requirement for mandated costs as defined by *Government Code* Section 17514. Health services costs recoverable through an authorized fee are not costs that the district is required to incur. *Government Code* Section 17556 states that COSM shall not find costs mandated by the State as defined in *Government Code* Section 17514 if the district has authority to levy fees to pay for the mandated program or increased level of service.

**FINDING 4—
Understated
expenditures and
offsetting
reimbursements**

The district underclaimed services and supplies by \$837 in FY 2001-02. The related indirect costs totaled \$153, based on the allowable indirect cost rate claimed for that fiscal year. The district also underclaimed offsetting revenues received in reimbursement of the \$837 expenditure noted above.

The health center expended \$837 to provide TB (tuberculosis) tests for the health center staff, and this amount was reimbursed by the district. The reimbursement was improperly recorded as an offset to expenditures (cost applied) rather than recorded as revenue for services rendered.

The following table summarizes the resulting audit adjustment.

	Fiscal Year 2001-02
Underclaimed services and supplies	\$ 837
Allowable indirect cost rate	× 18.23%
Related indirect costs	153
Total underclaimed services and supplies (from above)	837
Audit adjustment, total health expenditures	\$ 990
Audit adjustment, offsetting reimbursements	\$ (837)

Parameters and Guidelines states that eligible community college districts shall be reimbursed for the costs of providing a health services program. *Parameters and Guidelines* also requires the districts to list the cost of materials that have been consumed or expended specifically for the purpose of this mandate.

Parameters and Guidelines states that reimbursement for this mandate received from any source (e.g., federal, state, etc.) shall be identified and deducted from this claim.

Recommendation

We recommend the district include the expenditure of \$837 for providing TB tests for the health center staff in the direct costs of providing a health services program during FY 2001-02. In addition, the \$837 reimbursement received from the district should be shown as offsetting revenue.

District's Response

The State Controller correctly notes that the District reimbursed the student health services department for TB tests, and that these amounts were offset to expense accounts. The State Controller incorrectly concludes that this is improper. Point in fact, it complies with generally accepted accounting principles and the financial reporting requirements of the California Community College Chancellor's Office. The District is complying with financial reporting requirements. However, for purposes of *mandate cost accounting*, which differs from *financial accounting* in many aspects, the State Controller properly reverses the offset.

SCO's Comment

The finding and recommendation remain unchanged. The district agrees with the net audit adjustment.

**OTHER ISSUE—
Statute of limitations**

The district's response included comments regarding our authority to audit costs claimed for FY 2001-02. The district's response and the SCO's comment follow.

District's Response

The District's Fiscal Year 2001-02 claim was mailed to the State Controller on December 6, 2002. The draft audit report is dated February 4, 2005. According to Government Code Section 17558.5, this claim was subject to audit no later than December 31, 2004. The audit was not completed by this date. Therefore, the proposed audit adjustments for Fiscal Year 2001-02 are barred by the statute of limitations set forth in Government Code Section 17558.5.

SCO's Comment

Government Code Section 17558.5(a), in effect during the audit period, states that a district's reimbursement claim is subject to an audit no later than two years after the end of the calendar year in which the claim is filed or last amended. The claim was filed in December 2002. The audit was initiated on August 18, 2004, which is prior to the statutory deadline of December 2004.

**Attachment—
District's Response to
Draft Audit Report**



Board of Trustees
Dr. Thomas J. Clark
Jeffrey A. Kellogg
Dianne Theil McNinch
Douglas W. Otto
Roberto Uranga

Superintendent-President
E. Jan Kehoe, Ph.D.

Long Beach City College • Long Beach Community College District

4901 East Carson Street • Long Beach, California 90808

CERTIFIED MAIL # 7000 0520 0020 5926 1881

February 23, 2005

Mr. Jim L. Spano, Chief
Compliance Audits Bureau
California State Controller
Division of Audits
P.O. Box 942850
Sacramento, CA 94250-5874

Re: Chapter 1, Statutes of 1984
Health Fee Elimination
State Controller's Audit
Fiscal Years: 2001-02 and 2002-03

Dear Mr. Spano:

This letter is the response of the Long Beach Community College District to the letter to President Kehoe from Vincent P. Brown, Chief Operating Officer, State Controller's Office, dated February 4, 2005, and received by the District on February 14, 2005, which enclosed a draft copy of the State Controller's Office audit report of the District's Health Fee Elimination claims for the period of July 1, 2001 through June 30, 2003.

Statute of Limitations

The District's Fiscal Year 2001-02 claim was mailed to the State Controller on December 6, 2002. The draft audit report is dated February 4, 2005. According to Government Code Section 17558.5, this claim was subject to audit no later than December 31, 2004. The audit was not completed by this date. Therefore, the proposed audit adjustments for Fiscal Year 2001-02 are barred by the statute of limitations set forth in Government Code Section 17558.5.

Finding 1 - Ineligible Health Services-Pregnancy Tests

The State Controller's draft audit report states that pregnancy tests were not available at the college health center in FY 1986-87. The District's Form HFE 2.1 accurately reflects that pregnancy *services* were available in FY1986-87.

The parameters and guidelines state at Part III Eligible Claimants:

"Community college districts which provided health services in 1986-87 fiscal year and continue to provide the same services as a result of the mandate are eligible to claim reimbursement of those costs."

Education Code section 76355, subdivision (e), states:

"Any community college district that provided health services in the 1986-87 fiscal year shall maintain health services, at the level provided during the 1986-87 fiscal year, and each fiscal year thereafter."

Pregnancy tests are just a part of the whole scope of *services* which may comprise pregnancy services. The State Controller, as the audit agency proposing the adjustment, has the burden of proving the factual and legal basis for its adjustments. The State Controller provides no legal basis to conclude that the absence or inclusion of one type of laboratory *test* constitutes a different level of *service* from year to year. It would therefore appear that this finding is based upon the wrong standard for review.

Finding 2 - Unallowable Services and Supplies Costs

The District is still investigating the athletic insurance costs to determine if the amounts reported in the claim related to basic insurance costs for students who also were covered by athletic insurance. However, the final audit report need not be delayed for this work.

Finding 3 - Overstated Indirect Costs Claimed

The State Controller asserts that the indirect cost method used by the District was inappropriate since it was not a cost study specifically approved by the federal government, which is one of the several choices allowed by the parameters and guidelines. The parameters and guidelines *do not require* that indirect costs be claimed in the manner described by the State Controller.

The State Controller's claiming instructions were never adopted as rules or regulations, and therefore have no force of law. The burden is on the State Controller to show, either factually or as a matter of law, that the indirect cost rate method used by the District is excessive or unreasonable, which is the only mandated cost audit standard in

statute (Government Code Section 17651(d) (2). If the State Controller wishes to enforce audit standards for mandated cost reimbursement, the State Controller should comply with the Administrative Procedures Act.

Finding 4 - Understated Authorized Health Fee Revenues Claimed

The District reported the actual student health services received, rather than utilize an estimate generated by the artificial calculation suggested by the parameters and guidelines. The State Controller alleges that claimants must compute the total student health fees collectible based on the highest "authorized" rate. The State Controller does not provide the factual basis for the calculation of the "authorized" rate, nor provide any reference to the "authorizing" source, nor the legal right of any state entity to "authorize" student health services rates absent rulemaking or compliance with the Administrative Procedures Act by the "authorizing" state agency.

Education Code Section 76355, subdivision (a), states that "The governing board of a district maintaining a community college may require community college students to pay a fee . . . for health supervision and services . . ." There is no requirement that community colleges levy these fees. The permissive nature of the provision is further illustrated in subdivision (b) which states "If, pursuant to this section, a fee is required, the governing board of the district shall decide the amount of the fee, if any, that a part-time student is required to pay. The governing board may decide whether the fee shall be mandatory or optional." (Emphasis supplied in both instances)

The State Controller asserts that the parameters and guidelines require that health fees authorized by the Education Code must be deducted from the costs claimed. This is a misstatement of the Parameters and Guidelines. The Parameters and Guidelines, as last amended on May 25, 1989, state that "Any offsetting savings . . . must be deducted from the costs claimed . . . This shall include the amount of (student fees) as authorized by Education Code Section 72246(a)¹." Therefore, while student fees actually collected are properly used to offset costs, student fees that could have been collected, but were not, are not an offset.

The State Controller also misconstrues the legal meaning of Government Code Section 17556, which prohibits the Commission on State Mandates from approving test claims when the local government agency has authority to charge a fee sufficient to fund the cost of the mandate. The Commission determined that the mandate was a new program or increased level of service. Even the source of the mandate, Education Code Section 76355, at subdivision (e), allows for the possibility that the "cost to

¹ Former Education Code Section 72246 was repealed by Chapter 8, Statutes of 1993, Section 29, and was replaced by Education Code Section 76355.

maintain that level of service" will exceed the statutory limit for the student health fees.

As a final defect, the State Controller does not demonstrate how reporting actual revenues received fails to comply with the law, and indeed, why it is not more accurate for cost accounting purposes than an estimate determined by the fee calculation.

Finding 5 - Understated Expenditures and Offsetting Reimbursements

The State Controller correctly notes that the District reimbursed the student health services department for TB tests, and that these amounts were offset to expense accounts. The State Controller incorrectly concludes that this is improper. Point in fact, it complies with generally accepted accounting principles and the financial reporting requirements of the California Community College Chancellor's Office. The District is complying with financial reporting requirements. However, for purposes of *mandate cost accounting*, which differs from *financial accounting* in many aspects, the State Controller properly reverses the offset.

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The District requests that the audit report be changed to comply with the appropriate application of the Government Code concerning audits of mandate claims.

Sincerely,



Irma Ramos, Administrative Dean
Long Beach Community College District

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